

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

VIRTAMOVE, CORP.,

Plaintiff,

v.

HEWLETT PACKARD ENTERPRISE  
COMPANY,

Defendant.

§ Case No. 2:24-cv-00093-JRG  
§ (Lead Case)  
§  
§

**JURY TRIAL DEMANDED**

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VIRTAMOVE, CORP.,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES  
CORP.,

Defendant.

§ Case No. 2:24-cv-00064-JRG  
§ (Member Case)  
§  
§

**JURY TRIAL DEMANDED**

**DECLARATION OF KYLE A. CALHOUN IN SUPPORT OF DEFENDANT  
INTERNATIONAL BUSINESS MACHINES CORP.'S OPENING BRIEF IN SUPPORT  
OF ITS MOTION FOR SUMMARY JUDGMENT OF NO WILLFUL INFRINGEMENT**

I, Kyle A. Calhoun, hereby declare:

1. I am a partner at Kirkland & Ellis LLP, counsel of record for Defendant International Business Machines Corp. ("IBM") in the above-captioned action. I make this declaration based on my personal knowledge and review of the documents referenced herein. If called to testify, I could and would testify competently to the matters set forth below.

2. Attached as Exhibit 1 is a true and correct copy of VirtaMove's Eighth Supplemental Objections and Responses to IBM's First Set of Interrogatories, dated 5/29/2025.

3. Attached as Exhibit 2 is a true and correct copy of excerpts from the 12/872,996 file history.

4. Attached as Exhibit 3 is a true and correct copy of excerpts from the 13/671,422 file history.

5. Attached as Exhibit 4 is a true and correct copy of the U.S. Patent Application Publication 2009/0328117.

6. Attached as Exhibit 5 is a true and correct copy of VirtaMove's Supplemental Objections and Responses to IBM's Second Set of Interrogatories, dated 5/29/2025.

7. Attached as Exhibit 6 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0001692.

8. Attached as Exhibit 7 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0001766.

9. Attached as Exhibit 8 is a true and correct copy of excerpts from the Invalidity Opening Expert Report of Stephen Wicker, dated 6/23/2025.

10. Attached as Exhibit 9 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0001542.

11. Attached as Exhibit 10 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0001609.

12. Attached as Exhibit 11 is a true and correct copy of a production document from Hewlett Packard Enterprise Company, bearing beginning bates VM\_HPE\_0000001.

13. Attached as Exhibit 12 is a true and correct copy of VirtaMove's Objections and Responses to IBM's Second Set of Requests for Admission, dated 5/29/2025.

14. Attached as Exhibit 13 is a true and correct copy of excerpts from the Nigel Stokes deposition transcript, dated 5/21/2025.

15. Attached as Exhibit 14 is a true and correct copy of excerpts from Greg O'Connor's Deposition Transcript, dated 5/15/2025.

16. Attached as Exhibit 15 is a true and correct copy of excerpts from the Donn Rochette Deposition Transcript, dated 5/5/2025.

17. Attached as Exhibit 16 is a true and correct copy of excerpts from the Paul O'Leary Deposition Transcript, dated 5/14/2025.

18. Attached as Exhibit 17 is a true and correct copy of excerpts from the Dean Huffman Deposition Transcript, dated 5/21/2025.

19. Exhibit 18 is a true and correct copy of excerpts from Walter Falk's Deposition Transcript, dated 5/13/2025.

20. Exhibit 19 is a true and correct copy of excerpts from Mac Devine's Deposition Transcript, dated 5/29/2025.

21. Attached as Exhibit 20 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0000425.

22. Attached as Exhibit 21 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0000427.

23. Attached as Exhibit 22 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0031260.

24. Attached as Exhibit 23 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0030244.

25. Attached as Exhibit 24 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0001958.

26. Attached as Exhibit 25 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0001923.

27. Attached as Exhibit 26 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0041772.

28. Attached as Exhibit 27 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0001963.

29. Attached as Exhibit 28 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0001915.

30. Attached as Exhibit 29 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0029966.

31. Attached as Exhibit 30 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0042423.

32. Attached as Exhibit 31 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0000457.

33. Attached as Exhibit 32 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0034925.

34. Attached as Exhibit 33 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0035102.

35. Attached as Exhibit 34 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0035059.

36. Attached as Exhibit 35 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0035060.

37. Attached as Exhibit 36 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM\_IBM\_0035063.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 28, 2025 in Atlanta, GA.

/s/ Kyle A. Calhoun

Kyle A. Calhoun

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system pursuant to Local Rule CV-5(a)(3) on July 28, 2025.

/s/ Todd M. Friedman

Todd M. Friedman